



United States  
Department of  
Agriculture

Food and  
Nutrition  
Service

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February 25, 2004

**SUBJECT:** Final WIC Policy Memorandum #2002-7, Revision 1  
Maximum Penalty/Fine for Misuse or Illegal Use of  
WIC Program Funds, Property or Assets

**TO:** Regional Directors  
Supplemental Food Programs  
All Regions

### **Purpose**

The purpose of this policy memorandum is to advise you of a legislative change that affects WIC Program regulations concerning the maximum penalty for misuse or illegal use of WIC Program funds, assets or property.

### **Background**

Section 104(b) of Public Law 105-336, the William F. Goodling Child Nutrition Reauthorization Act of 1998, enacted October 31, 1998, amends Section 12(g) of the National School Lunch (NSL) Act, by changing the maximum penalty for misuse or illegal use of funds, assets or property of a grant or other assistance under the NSL Act from \$10,000 to \$25,000. As set forth in Section 12(g) of the NSL Act, the maximum penalty also applies to programs under the Child Nutrition Act. Currently, Sections 246.12(h)(3)(xx) and 246.23(d) of the WIC Program regulations establish a maximum fine of \$10,000, in accordance with Section 12(g) of the NSL Act, for individuals that embezzle, willfully misapply, steal or obtain by fraud, any funds, assets or property provided, whether received directly or indirectly from USDA that are of a value of \$100 or more. Therefore, based on the legislative change noted above, the maximum penalty or fine for misuse or illegal use of WIC Program funds, assets or property is \$25,000. We are in the process of revising WIC Program regulations to reflect this change.

### **State Agency Action**

State agencies should begin reflecting/applying the new penalty limit of \$25,000. With regard to agreements, e.g., vendor and local agency agreements, State agencies in the process of revising such agreements should reflect the higher limit of \$25,000. For States agencies that are not currently revising agreements, we recommend that they issue an amendment to current agreements to reflect the higher limit of \$25,000. If State agencies are unable to amend current agreements due to administrative burdens/hardships, they should incorporate the change in the next cycle of issuing the agreements.

/signed/

PATRICIA N. DANIELS  
Director  
Supplemental Food Programs Division